TEXT OF PROPOSED REGULATIONS

In the following, <u>underline</u> indicates additional text and strikethrough indicates deleted text.

Title 15. Crime Prevention and Corrections

Division 3. Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Title to Subchapter 6 is amended to read:

SUBCHAPTER 6. ADULT PAROLE

Title to Article 1 is amended to read:

Article 1. Parole Release Supervision

Existing section 3500 is renumbered 3501.

New section 3500 is adopted to read:

3500. General Policy

- (a) Pursuant to the provisions of Penal Code (PC) section 3000, when an inmate is sentenced under PC section 1168 or 1170 by a court, the California Department of Corrections and Rehabilitation (CDCR) shall release the inmate on parole unless it is waived by the Board of Parole Hearings.
- (b) Release on parole means the legal and physical transfer of an inmate from confinement in an institution to the supervision of a parole agent of the CDCR, Division of Adult Parole Operations.
- (c) The function of parole is:
- (1) To provide for the supervision and surveillance of parolees, including the judicious use of revocation actions.
- (2) To provide educational, vocational, family and personal counseling necessary to assist in the transition between imprisonment and discharge, when feasible.
- (d) Public safety and security.
- (1) Consistent effort will be made to ensure that the public is protected and the effectiveness of inmate/parolee treatment programs are within the framework of departmental security and safety.
- (2) Each CDCR employee within the parole process will be trained to understand how employee behavior, supervision levels, personnel, and operative procedures affect the maintenance of public safety and security.
- (3) The requirement of compliance with conditions of parole, the law, and the need to protect the public will take precedence over all other considerations in the operation of all programs and activities of the parole process.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1168, 1170, 3000 and 5054, Penal Code.

Existing section 3501 is relocated to Article 16 and is renumbered new section 3730.

Existing section 3500 is renumbered new section 3501, re-titled and amended to read:

35001. General and Special Conditions of Parole and Outpatient Status Rules and Regulations.

Persons committed to the <u>Ddepartment</u> who are allowed to go upon and remain upon parole or outpatient status, shall conform to the applicable rules established by or under the authority of the Board of <u>Prison</u> Terms and the Narcotic Addict Evaluation Authority <u>Parole Hearings</u> as set forth in Title 15, Divisions 2 and 5 of the California <u>Administrative</u> Code of Regulations.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3052 and 5076.2, Penal Code; and Sections 3151 and 3156, Welfare and Institutions Code.

Section 3502 is amended to read:

3502. Prerelease Referral.

An inmate's case shall be referred to the parole region for parole program development 120 150 days prior to the expected release date, or immediately if less time remains.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Article 7. Parole Searches

3600. Searches of Parolees.

(a) Any contraband or evidence of illegal activity shall be seized by the parole agent or the law enforcement officer conducting a search of a parolee's person, property, or residence. Property not belonging to the parolee shall be seized only when needed as evidence to support a parole violation charge.

Subsection 3600(b) is amended to read:

- (b) Property seized as evidence by departmental staff shall be documented on a CDCR Form 1136 (Rev. 10/06), Evidence Report and Inventory Receipt, (Rev. 6/88). A copy of the form will be available to either the parolee or a responsible adult, or left at the place of seizure.
- (c) Only those areas of a parolee's residence occupied solely by the parolee or of common access shall be searched without a search warrant.

Subsection 3600(d) is amended to read:

- (d) A parole agent's authority to search or arrest a parolee <u>applies to all law enforcement officers in California as long as it is judicious and conducted for legitimate law enforcement purposes.</u> may be delegated to another law enforcement agency under any of the following circumstances:
- (1) There is reason to believe a parole violation has occurred.
- (2) The parole agent, due to distance from the scene, is unable to be present.
- (3) Contraband will likely be destroyed if the search is delayed.

Subsection 3600(e) is amended to read:

(e) If staff's forced entry into a structure results in damages to the structure, the parole office shall make available to the landlord or owner the claim form needed to recover repair costs through the State Board of Control Victim Compensation and Government Claims Board.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Sections 13920 and 13921, Government Code; *People* v. *Giles*, 233 Cal.App.2nd 643, 43 Cal.Rptr. 758 (1965); and *People* v. *LaJocies*, 119 Cal.App.3d 947, 174 Cal.Rptr. 100 (1981).

Article 9. Parole Outpatient Clinic.

3610. Parole Outpatient Clinic Services.

Subsections 3610(a) and (b) are amended to read:

- (a) Parole outpatient clinics (POC) have been established to staff shall provide psychiatric diagnosis, evaluation, and treatment for parolees referred by staff. mental health assessments and outpatient mental health treatment, if needed, to parolees. Treatment services may be supplemented by agreements with county mental health or other agencies.
- (b) Parolees/Releasees shall be referred to the parole outpatient clinic under either of the following eircumstances: At any time during the period of parole, the parole agent of record may refer a parolee to a POC for a screening evaluation to determine the need for a full mental health assessment.
- (1) They exhibit any of the following circumstances:
- (A) Delusions, hallucinations, bizarre behavior, persecutory feelings, or disjointed or incoherent speech.
- (B) An apparent lessening of control over their behavior.
- (C) Suicidal tendencies or attempts.
- (D) Extreme anxiety, tension, or depression caused by a situation similar to one which led to past problems.
- (E) Excessive anxiety, tension, chronic alcohol abuse, paranoia, or belligerence.

Existing subsection 3610(b)(2) is relocated and renumbered new subsection 3610(d).

Existing subsection 3610(c) is relocated and renumbered new subsection 3610(h).

New subsection 3610(c) is adopted to read:

(c) POC clinical staff shall provide a mental health assessment for each referred parolee to determine if there is a need for transitional or sustained therapeutic intervention on an outpatient basis. If therapy is deemed necessary, the parolee shall be assigned to attend a POC for mental health treatment. Treatment services may be supplemented by interagency agreements/contracts with other state and county agencies. All records of mental health diagnosis, evaluation and treatment shall be considered confidential in accordance with subsection 3361(c).

Existing subsection 3610(b)(2) is relocated and renumbered new subsection 3610(d) and amended to read:

(2d) The parole agent of record shall impose aA special condition of parole or release requires the parolee/releasee to participate in psychiatric a POC on all parolees assigned by clinical staff to attend POC for treatment.

New subsections 3610(e) through (g) are adopted to read:

- (e) A parolee upon whom a special condition of parole to attend a POC is imposed and who is absent without being excused by their parole agent of record or the POC clinician, or whose stated reasons for absence are later determined by the parole agent of record to be false, shall be considered in violation of their parole conditions.
- (f) Mandatory referral to a POC for a mental health assessment shall be made by the parole agent of record for the following:
- (1) Inmates who are in a mental health treatment program at the time of the prerelease case referral as described in section 3502. To provide continuity of care, a POC referral appointment shall occur as soon as possible but not more than 30 days after release to parole.
- (2) Parolees whose offense history, institutional history, social history, or behavior in the community, past or present, indicate that a mental health assessment may be of assistance in successful reintegration to the community.
- (3) Violent offenders, as designated in Penal Code (PC) section 667.5(c), and sex offenders as designated in PC section 290, for whom a mental disorder may have been a contributing factor to their commitment offense.
- (4) Parolees exhibiting observable symptoms of a mental disorder while under supervision in the community.
- (g) Parolees for whom psychotropic medications are prescribed shall be given the information upon which to base an informed consent. The parolee shall provide specific written informed consent in compliance with sections 3353 and 3363(d).

Existing renumbered subsection 3610(c) is relocated and renumbered new subsection 3610(h) and is amended to read:

(eh) When the department's jurisdiction of a parolee/releasee is expiring and continued treatment or services are required, the parole agent of record, in concert with POC staff, shall assist the parolee/releasee to in obtaining the services from a community mental health agency. If the services of the agencies cannot be obtained, the parolee/releasee may continue to receive parole outpatient clinic services until community services can be arranged or the services are no longer required.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 290, 667.5(c). 2974 and 5054, Penal Code.

Article 10. Civil Addicts

Section 3620 is amended to read:

3620. Special Requirements of Civil Addict Release or Parole.

A parole agent may impose special requirements necessary for a civil addict releasee's or parolee's successful adjustment to their release or parole. Any such requirements which are to remain in effect for more than seven days shall be given to the releasee or civil addict parolee in writing. Any such conditions to remain in effect for more than 30 days shall be submitted to the narcotic addict evaluation authority Board of Parole Hearings as a recommendation to impose as a special condition of release or parole.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3151 and 3201(c), Welfare and Institutions Code; and Section 5054, Penal Code.

3625. Civil Addict Program Exclusion.

Subsection 3625(a) is amended to read:

- (a) A civil addict parolee or releasee who is determined by the department to be unfit for the civil addict program shall be returned to the committing court with a recommendation to vacate the civil commitment court in which the case originated for further proceedings on the criminal charges that the court may deem warranted.
- (b) Such a determination may be based upon any of the following reasons:
- (1) The person engaged in any of the following activities:
- (A) Extensive criminal behavior.
- (B) Serious criminal behavior unrelated to addiction or substance abuse.
- (C) Sales, or possession for sale, of drugs valued at more than \$10,000.
- (D) Repeated possession of a controlled substance in quantities considered excessive for personal use.
- (E) A pattern of using or threatening to use force.
- (2) The person commits an act which involved violence or the use of a deadly weapon.
- (3) The person refuses to participate in department-prescribed programming.
- (4) The person repeatedly absconds from supervision.
- (5) The person continues in a pattern of criminal activity not likely to change as a result of supervision.
- (6) The person has a long-term medical or psychiatric problem which renders them unsuitable for outpatient supervision.
- (7) The person is not available for supervision because of deportation or a felony commitment to a state or federal prison.

Subsection 3625(b)(8) is amended to read:

- (8) The person has been at-large for more than six months and has a prior conviction for violence, sales of drugs, robbery, or possession of a weapons.
- (9) The person has been at-large for more than 12 months.

New subsections 3625(c) through (g)(3) are adopted to read:

- (c) The decision to exclude a civil addict parolee from the Civil Addict Program will be the result of a case conference between the parole agent and the unit supervisor.
- (d) When it is determined exclusion procedures will commence, the parole agent shall send the releasee or civil addict parolee a notification letter advising him or her that an exclusion letter will be sent to the committing court in 15 calendar days if they do not report to the parole agent in person. The letter shall be sent to the releasee or civil addict parolee's last known address. If the releasee or civil addict parolee so reports, the parole agent will case conference with the unit supervisor. Based upon the facts and circumstances surrounding the parolee's unavailability for parole supervision, the unit supervisor will decide whether or not to proceed with the exclusion letter.
- (e) The parole agent shall prepare an exclusion letter for the signature of the Warden of the California Rehabilitation Center. The exclusion letter shall include the following information:
- (1) Date releasee or civil addict parolee's parole status was suspended by the Board of Parole Hearings.
- (2) Efforts made to locate the releasee or civil addict parolee.
- (3) Any arrests made prior to or after suspension.
- (4) Last known address prior to suspension.
- (5) Date parole agent sent releasee or civil addict parolee a notification letter as per subsection 3625(d).
- (f) Upon receipt of a minute order from the originating court vacating the commitment, the parole agent shall cancel the warrant if issued by the Board of Parole Hearings.
- (g) When the parole agent becomes aware that a releasee or parolee at large has been arrested, and an exclusion letter has already been sent, the parole agent shall contact the committing court to determine whether that court has vacated the civil addict commitment.
- (1) If the committing court has vacated the civil commitment, a detainer shall not be placed on the releasee at large or parolee at large.
- (2) If it cannot be determined whether or not the committing court has acted on the exclusion letter, a detainer shall not be placed until such time as confirmation can be obtained.
- (3) If it is confirmed that the committing court has not yet vacated the civil commitment, a detainer may be placed while a decision is made whether or not to rescind the exclusion letter.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 3053, Welfare and Institutions Code; and Section 5054, Penal Code.

Article 11. Illegal Aliens

3630. Limitations of Parole Services.

- (a) Pursuant to section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRWORA) (8 U.S.C. section 1621), and notwithstanding any other provision of Title 15, Division 3 of the California Code of Regulations, aliens who are not "qualified aliens" or "nonimmigrant aliens," as defined by federal law, or who are paroled into the United States for less than one year, are ineligible to receive or participate in the following parole services:
- (1) Food coupons.
- (2) Bus passes.
- (3) Job placement services.
- (4) Short-term cash assistance.

Subsection 3630(b) is amended to read:

- (b) Verification of immigration status is based on information furnished to the Department by the United States Immigration and Naturalization Services Customs Enforcement prior to an inmate alien's release on parole.
- (c) A determination that an alien is ineligible for the services specified in subdivision (a) may be appealed as provided in section 3084.1 of these regulations.
- (d) All eligibility requirements contained herein shall be applied without regard to race, creed, color, gender, religion, or national origin.
- (e) For purposes of this section, an alien who, at the time he or she applies for, receives, or attempts to receive a parole benefit specified in subsection (a), is eligible for those benefits if he or she meets all of the conditions of subparagraphs (1), (2), (3), and (4) below:
- (1) Has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent of the alien consented to, or acquiesced in, such battery or cruelty; or has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent of the alien, without the active participation of the alien in the battery or cruelty, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent consented or acquiesced to such battery or cruelty.

- (2) In the opinion of the Attorney General of the United States, which opinion is not subject to the review of any court, there is a substantial connection between such battery or cruelty and the need for the benefits to be provided.
- (3) Has been approved or has a petition pending which sets forth a prima facie case, as enumerated in the Immigration and Nationality Act (INA), for:
- (A) Status as a spouse or child of a United States citizen; or
- (B) Suspension of deportation and adjustment of status; or
- (C) Classification pursuant to clause (ii) or clause (iii) of Section 204(a)(1)(B) of the INA.

Subsection 3630(e)(3)(D) is amended to read:

- (D) Cancellization of removal pursuant to Section 240A(b)(2) of the INA.
- (4) For the period for which the benefits are sought, the individual responsible for the battery or cruelty, as stated in paragraph (e)(1) does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

NOTE: Authority cited: Section 5058, Penal Code. Reference: 8 U.S.C. Sections 1621, 1641, and 1642; Section 297.5, Family Code; and Section 5054, Penal Code.

Reserved Article 12 is adopted.

Article 12. Parolee Field Files (RESERVED)

Under Article 12, reserved section 3640 is adopted to read:

3640. Parolee Field Files (Reserved)

- (a) For the purpose of this section, a parolee field file means a file maintained by a parole unit office containing information about a parolee and his or her current parole.
- (b) Except by means of valid authorization, subpoena, or court order, no parolee or their attorney or the attorney's designee shall have access to another parolee's field file or component thereof.
- (c) Parolees may review their own field file, subject to applicable federal and state law. This review shall be conducted in the presence of staff. The parolee will not be provided access to a computer to view any of his or her electronic records, if applicable, but instead will have a printed copy made available.
- (d) No parolee or their attorney or the attorney's designee shall access information designated confidential pursuant to section 3321 which is in or from the parolee's field file.
- (e) An attorney or the attorney's designee, hired to or appointed to represent a parolee in the parole revocation process may review a parolee's field file, subject to applicable federal and state law. A parolee's attorney or the attorney's designee is not required to obtain authorization from the parolee before reviewing the parolee's field file, though authorization may be provided. This review shall be conducted in the presence of staff. The attorney or the attorney's designee will not be provided access to

a computer to view any of the parolee's electronic records, if applicable, but instead will have a printed copy made available.

(f) No parolee field file or component thereof shall be released to any agency or person outside the department, except for private attorneys hired to represent the department, the Office of the Attorney General, the Board of Parole Hearings, the Inspector General, and as provided by applicable federal and state law. Any outside person or entity that receives parolee field files is subject to all legal and departmental standards for the integrity and confidentiality of those documents.

NOTE: Authority Cited: Section 5058, Penal Code. Reference: Sections 2081.5, 5054 and 6126.5, Penal Code; Sections 56.10, 1798.24 and 1798.40, Civil Code; and Code of Federal Regulations, Title 45, Sections 164.512 and 164.524.

Reserved Article 16, untitled, is adopted to now read:

Article 16. Restitution (RESERVED)

Existing section 3501 is relocated to Article 16, is renumbered reserved section 3730, and is amended and adopted to now read:

3501 3730. Restitution Obligations. (Reserved)

Restitution obligations shall be considered when recommending a parolee for early discharge or when conducting an annual discharge review.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4852.05 and 5054, Penal Code.

Article 17. Revocation or Limited Placement Releasees

Section 3740 is amended to read:

3740. Release from Revocation or Limited Placement.

Upon a parolee's release from local custody, <u>an institution, facility, or sanction imposed program</u> their assigned parole agent shall assist the parolee to return to their previous parole program or to develop a new program <u>based upon their particular needs or Board of Parole Hearings imposed sanction</u>.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.